

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,) No. CIV 05-457-TUC-DCB
Plaintiff,)
vs.)
Cyberheat, Inc., an Arizona) Declaration of Chad R. Bundy
corporation,)
Defendant.)

I, Chad R. Bundy, declare as follows:

1. I am an attorney at Preston Gates & Ellis, LLP. I have knowledge of the facts set forth in this declaration, and I am competent to testify thereto.

2. I represent Microsoft Corporation in certain matters relating to unsolicited commercial e-mail, commonly referred to as "spam." In that regard, I have access to a secure database of e-mail messages collected by Microsoft to analyze whether mail coming into its MSN and MSN Hotmail services complies with its Terms of Use and Anti-Spam Policy.

3. The e-mail in that database comes from a substantial number of MSN Hotmail e-mail accounts that are owned by Microsoft (the "Hotmail trap accounts"). These Hotmail trap accounts were established by Microsoft in its efforts to combat spam.

4. In or around October and December 2004, March 2005, and April 2006. I was asked to perform searches of the Hotmail trap accounts on behalf of the Federal Trade Commission (“FTC”). The FTC requested unsolicited “spam” e-mail messages that contained certain specific domain names or other search terms. In addition, the FTC requested unsolicited “spam” e-mail messages advertising websites associated with Cyberheat, Inc.

DECLARATION OF CHAD R.
BUNDY - 1

BOND
Case No.

Case No. _____

K:\00103\02847\YCRB\YCRBP200P

Plaintiff's Motion
for Summary Judgment
Civ 05-0457 - Ex. 3

1 of 3

PRESTON GATES & ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022

1 ("Cyberheat").

2 5. Through Microsoft's vendor who maintains the database, I requested and
 3 received all of the e-mail messages matching the FTC search terms, along with Excel
 4 spreadsheets containing the header information for each e-mail message.

5 6. Many of the received messages caught in the Hotmail trap accounts contained
 6 images within the message body. In order to preserve the images in those messages – in the
 7 event that the image source became inactive -- I forwarded the email messages to another
 8 vendor to make copies of the messages in Adobe PDF format. Adobe PDF files look exactly
 9 like original documents, and the Adobe PDF copies of the e-mails reflect what a recipient of
 10 the e-mails would have seen at the time.

11 7. I ran the e-mail messages through a utility tool to extract all the Uniform
 12 Resource Locators ("URLs") from each of the messages. The URLs, commonly referred to as
 13 the "links" in the e-mail messages, show the websites or Internet locations to which a viewer
 14 would be directed if he clicked on the links in the e-mails. Results for these extractions were
 15 saved in Excel spreadsheets.

16 8. Using the publicly available web capture utility tool, HTTrack, I created
 17 HTML web captures of some of the URLs. An HTTrack HTML web capture allows a user to
 18 download a website from the Internet to a local directory, building recursively all directories,
 19 getting HTML, images, and other files from the server to the user's computer. HTTrack
 20 arranges the original site's relative link-structure. It essentially captures a "mirror image" of
 21 the website, and stores it on the user's computer. By opening a page of the "mirrored"
 22 website, a user can browse the site from link to link, as if he were viewing it online.

23 9. In some instances, web captures of the URLs were also made using the Adobe
 24 Acrobat web capture utility. Adobe Acrobat web captures create PDF files of the URLs.
 25 Adobe PDF files look exactly like original documents and show what a user would see at the
 26

DECLARATION OF CHAD R.
 BUNDY - 2

Case No. _____

K:\00103\02847\YCRB\YCRBP200P

Plaintiff's Motion
 for Summary Judgment
 Civ 05-0457 - Ex. 3
 2 of 3

PRESTON GATES & ELLIS LLP
 925 FOURTH AVENUE
 SUITE 2900
 SEATTLE, WASHINGTON 98104-1158
 TELEPHONE: (206) 623-7580
 FACSIMILE: (206) 623-7022

1 website at the time of the capture.

2 10. Using the HTTrack web captures, I created Excel spreadsheets summarizing
3 the HTML web captures of the URLs. The summaries noted messages URLs, redirect URLs,
4 if any, and the ultimate destination URL.

5 11. Finally, by uploading the data to the Preston Gates & Ellis ".ftp" server, I
6 provided to the FTC the email messages, PDF email messages, HTTrack HTML and Adobe
7 web captures, and all Excel spreadsheets summarizing the email messages and web captures.

8
9 I declare under penalty of perjury that the foregoing is true and correct:
10 11 EXECUTED this 20th day of July, 2006 at Seattle, WA.

12
13 
14
15
16
17
18
19
20
21
22
23
24
25
26

CHAD R. BUNDY

DECLARATION OF CHAD R.

BUNDY - 3

Case No. _____

K:\00103\02847\YCRB\YCRBP200P

Plaintiff's Motion
for Summary Judgment
Civ 05-0457 - Ex. 3
3 of 3

PRESTON GATES & ELLIS LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-1158
TELEPHONE: (206) 623-7580
FACSIMILE: (206) 623-7022